



M. DOUGLAS SCOTT
CHIEF OF POLICE

ARLINGTON COUNTY POLICE DEPARTMENT
ARLINGTON COUNTY COURTHOUSE
1425 NORTH COURTHOUSE ROAD
ARLINGTON, VIRGINIA 22201

PHONE: 703-228-4040
EMAIL: POLICE@ARLINGTONVA.US



MICHAEL G. DUNNE
DEPUTY CHIEF

MURRAY J. FARR
DEPUTY CHIEF

DANIEL J. MURRAY
DEPUTY CHIEF

October 18, 2013

Shawn Musgrave
MuckRock News
Via email: 8249-80214636@requests.muckrock.com

RE: Virginia Freedom of Information Act Request

Dear Mr. Musgrave,

I am writing in response to your recent request for information pursuant to the Virginia Freedom of Information Act (FOIA). Based on your request, it is my understanding that you are seeking numerous records related to the Arlington County Police Department's use of aerial drones. Please be advised that access under the Virginia Freedom of Information Act is open to "citizens of the Commonwealth, representatives of newspapers and magazines with circulation in the Commonwealth, and representatives of radio and television stations broadcasting in or into the Commonwealth." (Virginia Code 2.2-3704.A) Accordingly, it does not appear from your email that access under the Virginia Freedom of Information Act is available to you. However, in an effort to provide information and be responsive, the below information is provided. No additional searches will be conducted.

First, I would point out that ACPD does not currently own, lease, use or have access to any aerial drones, nor do we have any current or future plans to purchase or utilize a drone. In an effort to ensure that we complied with your requests, I have made several inquiries to determine what documents, if any, we may have in response to your requests. For clarity purposes, I will reply to each of your requests individually with my response being in red and a portion of your initial request being in bold italics.

All documents created from January 2005 to the date this request is processed related to the agency's use of aerial drones, etc.... On July 26, 2012, ACPD (Lt. Deso) responded to an inquiry made by a citizen regarding drones. A copy of the response memorandum is attached (4 pages). Please note that pursuant to Virginia Code Section 2.2-3706 (B) any personal and private identifying information has been redacted out of privacy concerns. Additionally, a review of our legislative information revealed a power point document titled: "New Laws Update for Law Enforcement." I have provided the cover page for this document along with pages 35 and 36, which pertain to drones in the Commonwealth of Virginia. Additional information regarding the drone legislative efforts can be located at: <http://lis.virginia.gov/cgi-bin/legp604.exe?131+sum+HB2012>.

1. Acquisition Documents:

i. Requests for proposals, proposals/quotes submitted by vendors, contacts, leases, budget requests, etc.. We have no responsive documents regarding this request.

ii. Grant applications and award letters for drone equipment purchase: We have no responsive documents regarding this request.

iii. Insurance contracts for all drone equipment: We have no responsive documents regarding this request.

iv. Communications between the agency head or agency quartermaster and drone vendors, manufacturers, or retailers: An inquiry to the Chief of Police revealed that he does not currently have any documents related to drones and does not recall emails related to this request in the past. No search of archived email was conducted as this would require significant effort and expense. Therefore, we do not have any documents pertinent to this request.

v. Communications between the agency head and agency quartermaster regarding acquisition, lease or use of drone equipment. An inquiry to the Chief of Police revealed that he does not currently have any documents related to drones and does not recall emails related to this request in the past. No search of archived email was conducted as this would require significant effort and expense. Therefore, we do not have any documents pertinent to this request.

vi. Communications between the agency head and the governor, mayor and city/town manager regarding the acquisition of drones: An inquiry to the Chief of Police revealed that he does not currently have any documents related to drones and does not recall emails related to this request in the past. No search of archived email was conducted as this would require significant effort and expense. Therefore, we do not have any documents pertinent to this request.

vii. Applications for Certificates of Waiver/Authorization from the FAA, etc.. We have no responsive documents regarding this request.

viii. Contracts for services related to drones, such as data storage, etc: We have no responsive documents regarding this request.

2. Equipment Logs: Since ACPD does not own, operate or lease any drones, we have no documents responsive to the specific requests in this section.

3. Policy Documents: Since ACPD does not own, operate or lease any drones, we have no documents responsive to the specific requests in this section.

4. Training Documents: Since ACPD does not own, operate or lease any drones, we have no documents responsive to the specific requests in this section.

5. Usage documents: Since ACPD does not own, operate or lease any drones, we have no documents responsive to the specific requests in this section.

Pursuant to Virginia Code Section 2.2-3704 (F) I am permitted to make reasonable charges to cover the cost incurred in accessing, duplicating, supplying, or searching for the requested records. The cost for this response is **\$30.15**. Please remit payment to the **Arlington County Police Department – Internal Affairs Section – 1425 N. Courthouse Road Arlington, Virginia 22201** within 30 days of the receipt of this letter.

I hope this information is useful to you and should you have any questions regarding this FOIA response, please feel free to contact me at 703-228-4161 or by email at cpenn@arlingtonva.us.

Sincerely,

A handwritten signature in dark ink, appearing to read 'A. Penn', with a long horizontal flourish extending to the right.

Captain Andy Penn
Commander
Internal Affairs Section

ARLINGTON COUNTY, VIRGINIA
Interdepartmental Memorandum

July 26, 2012

To: Mary Hynes, Chair, Arlington County Board

From: Office of the County Manager

Subject: G379329

Staff Preparing Response: Lieutenant Rob Deso, Police Department, 703-228-4299, rdeso@arlingtonva.us

Issues to Be Addressed:

- Review the request to study the ACLU recommendations (link in citizen's letter) and integrate them into a draft of county code, rules, bylaws or ordinances, law enforcement policies and procedures and to make these drafts available for public comment, discussion and debate before any future implementation of drones becomes a consideration by our police or other agencies in Arlington, Virginia.

Current Status/Findings:

- The following areas of concern are identified in the ACLU article forwarded by [REDACTED] to the Board in regards to drone use by law enforcement, and are addressed by category below.

Usage restrictions

The ACLU advocates that jurisdictions adopt strict usage policies for drones that ensure that they are not used to conduct surveillance activities in areas in which there is an expectation of privacy.

- This area of concern is currently addressed generally by existing laws and policies requiring the issuance of search and seizure warrants where there is an expectation of privacy, and there is no need to enact legislation that applies specifically to surveillance conducted by a drone. The article itself points out that the courts have handed down several rulings on where and when individuals have an expectation of privacy from visual surveillance, and that this privacy expectation holds true regardless of the method of surveillance.

Image retention restrictions

The ACLU advocates that jurisdictions adopt strict image retention policies that ensure that images of identifiable individuals captured by aerial surveil-

lance technologies are not be retained or shared unless there is reasonable suspicion that the images contain evidence of criminal activity or are relevant to an ongoing investigation or pending criminal trial.

- The Virginia Data Retention Act governs the use and storage of electronic images for law enforcement purposes, and the Police Department has adopted policies requiring that officers adhere to the provisions of this act.

Public Notice/Democratic Control

The ACLU advocates that the policies and procedures for the use of aerial surveillance technologies should be explicit and written, and should be made public.

- Although the Police Department does not currently utilize drones, and has no plans to do so in the future, the department requires that the deployment and use of all police-issued equipment be governed by policies and procedures outlined in the Department's Manual. The information in this Manual is available to the public pursuant to the Freedom of Information Act (FOIA).

Auditing and Effectiveness Tracking

The ACLU advocates that investments in UAVs should not be made without a clear, systematic examination of the costs and benefits involved and public comment on whether the acquisition of drones are justified after this examination has been completed. If aerial surveillance technology is deployed, the ACLU also recommends that audits should be put in place to track the use of UAVs by government to ensure that they are not being used for improper or expanded purposes.

- The Police Department has no plans to purchase a drone, but should it decide to do so in the future, it would be bound by County Purchasing Policies and/or Federal Grant guidelines. Internal review mechanisms in both processes would help ensure that a positive cost benefit analysis was predicted prior to the purchase of a drone. Additionally, mechanisms are currently in place that allow for public comment on Department budget requests as part of the annual County Budget review. The Department currently requires regular audits of several of its functions by the Internal Affairs Section for compliance and quality control purposes as specified in the Department Manual, and would most likely incorporate an audit of the drone program as part of this function should it become necessary to do so.
- Based upon the a review of the recommendations put forth by the ACLU, as found in the link provided, as well as the fact that the Police Department does

not have any current or future plans to utilize a drone for law enforcement or other purposes, there is no need for the County Board to consider enacting legislation governing their potential future use at this time.

Next Steps and Timeframe for Completion:

- N/A

Additional Information / Background / Relevant History:

- On June 13, 2012 the Police Department received an e-mail inquiry from [REDACTED] [REDACTED] reference the Department's current or planned use of drones for law enforcement purposes. Lieutenant Robert Deso was tasked with responding to [REDACTED] email, which was sent to her on June 13, 2012. There has been no further correspondence with [REDACTED] A copy of this response is attached to this Gram.

Attachments:

- Emails

EMAIL RESPONSE FROM LT. DESO

From: Robert Deso
Sent: Friday, June 15, 2012 9:55 AM
To: [REDACTED]
Cc: Charles Penn; Charlene Lancaster
Subject: Arlington County Use of Drones for Law Enforcement

[REDACTED]

I've been asked to respond to your recent email to the Police Department regarding its use of unmanned drones for law enforcement purposes, and to provide you with the point of contact within the Police Department for your geographic location. The Police Department does not have access to unmanned or remotely piloted aerial vehicles (drones), nor do we have any specific plans to obtain or utilize any in the future. As such, we have not issued requests for proposals from drone manufacturers for a drone, or attempted to procure funding to purchase one. We have no policies or guidelines on the use of drones as we do not utilize them as part of our operations.

Captain Andy Penn is the Second District Commander, and would be your designated point of contact within the Police Department based on your geographic location within the County. His email is cpenn@arlingtonva.us. However, it is my understanding that he is away on an extended assignment from the Department, and that Sergeant Charlene Lancaster is handling matters concerning the Second District in while he is away. Her email is clancaster@arlingtonva.us. Lastly, in answer to your question as to whether another local government agency oversees or regulates the Police Department, all Departments within the County report to the County Manager's Office. The Arlington County Manager is Barbara Donnellan, and her Office and its responsibilities are listed on the Arlington County website should you be interested in obtaining more information about their function within the County government structure.

Thank you for your email please let me know if you have any follow-up questions reference this issue.

Lt. Rob Deso
Homeland Security Section/LPR Program
Arlington County Police Department
Tel-703-228-4299
Email-rdeso@arlingtonva.us

EMAIL FROM [REDACTED]

From: [REDACTED]
Sent: Wednesday, June 13, 2012 8:52 PM
To: Police
Subject: Inquiry re: Drones and the FAA

To Whom It May Concern,

As an Arlington resident, I have a few questions regarding the new Drone Program in the US, specifically as the FAA regulations expand to local Law Enforcement:

- 1) I would like a point of contact and name of my local police department. I live in Zip Code 22202.
- 2) Does the department have or have access to an unmanned or remotely piloted aerial vehicle (a "drone")?
- 3) Does the department have specific plans to obtain a drone?
- 4) Has the department issues a request for proposals from drone vendors or manufacturers, or sought external funding for the purchase of a drone?
- 5) Does the department have specific purposes for which it would use a drone? For example: surveillance, search and rescue operations, or disaster relief?



2013

New Laws Update For Law Enforcement

Prepared by

Commonwealth's Attorneys' Services Council

Drone Moratorium

HB 2012 / SB 1331 - *Not Codified*

- **2-year prohibition** (to July 1, 2015) on law enforcement use of drones; exceptions for specified emergency circumstances.
- Drones are “unmanned aircraft systems.”
- Applies only to state/local law enforcement.
- Never a “weaponized” state/local drone.

Drone Moratorium

Deployment exceptions for:

- Amber Alert § [52-34.3](#)
- Senior Alert § [52-34.6](#),
- Blue Alert § [52-34.9](#)
- Search and rescue operation
- Not applicable to Va Natl Guard training, or to support damage assessment, traffic assessment, flood stages, and wildfire assessment.